

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

FRANKLIN CARL LEFEVER, )  
vs. ) Plaintiff, ) Case No. 2:10-cv-01917-RLH-PAL  
DEPUTY NICHOLSON, ) Defendant. ) **ORDER**  
 ) (Mot to Compel - Dkt. #25)

Before the court is Defendant Phillip Nicholson's Motion to Compel (Dkt. #25), filed October 4, 2011. No opposition to the motion was filed and the time for filing a response has now run. Plaintiff has not requested an extension of time in which to file a response.

The motion seeks an order compelling the Plaintiff to respond to Defendant Phillip Nicholson's interrogatories, requests for admission, and requests for production served on Plaintiff July 18, 2011. Counsel for Defendant represents that, when the Plaintiff failed to respond by the August 18, 2011 deadline, counsel sent a letter reminding Plaintiff that the responses were overdue and unilaterally granting an extension of time to answer until September 7, 2011. As of the date the motion was filed, no response has been received. Copies of the written discovery served on Plaintiff are attached as exhibits to the motion.

Pursuant to LR 7-2(d) “The failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion.” In a prior Order (Dkt. #26) the court granted Plaintiff’s request to extend the discovery plan and scheduling order deadlines because he was in the process of seeking the advice of counsel, and was then awaiting extradition to Oregon. After the motion was filed, defense counsel confirmed that Plaintiff was transferred to Oregon on the morning defense counsel arrived to take his deposition at the facility where Plaintiff was

1 incarcerated. The court has extended the discovery plan and scheduling order deadlines, and the current  
2 discovery cutoff is April 2, 2012.

3 Having reviewed and considered the matter,

4 **IT IS ORDERED** that:

- 5 1. Defendant's Motion to Compel (Dkt. #25) is **GRANTED**.
- 6 2. Plaintiff shall have until December 15, 2011, to serve full and complete responses to  
7 Defendant's interrogatories, requests for production, and requests for admission.
- 8 3. Plaintiff is advised that failure to timely comply with this order may result in sanctions,  
9 up to and including a recommendation to the district judge that his case be dismissed for  
10 failure to comply with the court's order, and failure to comply with his discovery  
11 obligations.
- 12 4. As the court has no information concerning whether Plaintiff has been returned to the  
13 State of Nevada or remains in Oregon pursuant to his extradition, counsel for Defendant  
14 shall be responsible for investigating his custody status and serving the Plaintiff with a  
15 copy of this order, and shall file proof of service of the order.
- 16 5. Plaintiff is advised that it is his responsibility to keep the court apprised of his current  
17 address, and that failure to provide the court and opposing counsel with an up-to-date  
18 address at which he can be served and contacted may also result in the dismissal of this  
19 case.

20 Dated this 15<sup>th</sup> day of November, 2011.

21  
22   
23 Peggy A. Seeger  
United States Magistrate Judge  
24  
25  
26  
27  
28